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# TRANSCRIPT OF RECORD

## SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934

No. 6

GUY T. HELVERING, COMMISSIONER OF INTERNAL REVENUE, PETITIONER

vs.

SUSAN DWIGHT BLISS

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED MARCH 23, 1934

CERTIORARI GRANTED APRIL 30, 1934

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1 Before United States Board of Tax Appeals

Docket No. 58391

SUSAN DWIGHT BLISS, PETITIONER

*v.*

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

*Docket entries*

Appearances:

For Taxpayer: Donald Arthur, Esq.

For Commissioner: C. C. Holmes, Esq.

1931

May 9—Petition received and filed. Taxpayer notified. (Fee paid.)

" 11—Copy of petition served on general counsel.

June 18—Answer filed by general counsel.

July 1—Copy of answer served on taxpayer. General Calendar.

Oct. 20—Motion to file amended petition, amended petition tendered, filed by taxpayer.

" 23—Motion to file amended petition granted.

" 27—Copy of motion and amendment served on general counsel.

Nov. 6—Answer to amended petition filed by general counsel. Copy served November 10, 1931.

1932

Sept. 8—Motion for leave to file amended answers, amendment tendered, filed by general counsel.

" 12—Motion granted.

" 20—Hearing set November 14, 1932.

2 Nov. 14.—Hearing had before Mr. Morris, division 14 on merits. Stipulation of facts filed. No briefs. Referred to Mr. Trammell.

Dec. 2—Findings of fact and opinion rendered, Mr. Trammell, division 2. Judgment will be entered under Rule 50.

" 29—Notice of settlement filed by general counsel.

1933

Jan. 5—Hearing set January 25, 1933, on settlement.

" 18—Consent to settlement filed by taxpayer.

" 31—Decision entered, Mr. Trammell, division 2.

Mar. 1—Petition for review by United States Circuit Court of Appeals (2) with assignments of error filed by taxpayer.

" 31—Proof of service filed by taxpayer.

" 31—Præcipe filed—proof of service thereon.

Before United States Board of Tax Appeals

Docket No. 60709

SUSAN DWIGHT BLISS, PETITIONER

*v.*

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

*Docket entries*

Appearances:

For Taxpayer: Donald Arthur, Esq.

For Commissioner: C. C. Holmes, Esq.

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1931

Dec. 1—Petition received and filed. Taxpayer notified. (Fee paid.)

" 1—Copy of petition served on general counsel.

1932

Jan. 4—Answer filed by general counsel.

" 5—Copy of answer served on taxpayer. General Calendar.

Sept. 8—Motion for leave to file amended answer filed by general counsel, amended answer lodged.

" 12—Motion granted.

" 20—Hearing set November 14, 1932.

Nov. 14—Hearing had before Mr. Morris, division 14, on merits—no briefs—stipulation of facts filed—referred to Mr. Trammell.

Dec. 2—Findings of fact and opinion rendered, Mr. Trammell, division 2. Judgment will be entered under Rule 50.

" 29—Notice of settlement filed by general counsel.

1933

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" 31—Præcipe filed—proof of service thereon.

4 Before United States Board of Tax Appeals

[Title omitted.]

*Petition* (*No. 58391*)

Filed May 9, 1931

The above-named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue (respondent herein) in his notice of deficiency (IT:AR:A–1–MH–60D) dated March 10, 1931, and as a basis of the proceeding alleges as follows:

1. The petitioner is a resident citizen of the United States whose address is % Price, Waterhouse & Co., 56 Pine Street, New York, N.Y.

2. The notice of deficiency (a copy of which is attached and marked "Exhibit A") was mailed to the petitioner on March 10, 1931.

3. The taxes in controversy are income taxes for the calendar year 1928, in the amount of $1,909.31.

4. The determination of tax set forth in the said notice of deficiency is based upon the following errors:

5 (a) The respondent has failed to allow as a deduction in the computation of taxable income received by the petitioner from the George T. Bliss Agency account, $1,508.89 representing a part of the fees paid to the trustees.

(b) The respondent has failed to allow as a deduction in the computation of capital net gain, $12,454.97 loss on the sale of capital stock of Quincy Mining Company.

5. The facts upon which the petitioner relies as the basis of its appeal are as follows:

a. For the calendar year 1928 the petitioner filed Federal income tax return on or before March 15, 1929, on the basis of cash receipt and disbursements and the respondent has computed the tax liability of the petitioner on the same basis.

b. In the tax return filed by the petitioner, her taxable income from the George T. Bliss Agency trust was included in the entire amount either distributed or distributable to her. In the Treasury Department letter the amount of $1,508.89 has been added as representing a proportionate reduction of allowable deductions to the trust on account of fees paid to the trustees.

c. In the appeal of Grace M. Knox et al., Executors of the Estate of Seymour H. Knox (3 B.T.A. 143) it was held that such compensation to executor and trustees is one of the ordinary and necessary expenses of the estate and properly deductible *without regard*

6 *to the fact that a portion of the estate's income is exempt from taxation.* [Italics supplied.]

d. During the calendar year 1928, the petitioner sold capital stock of the Quincy Mining Company for $10,045.03 which at the date of receipt on October 30, 1918, had a cost or base of $22,500.00 resulting in capital loss of $12,454.97.

e. The respondent has failed to allow as a deduction in the computation of capital net gain the loss of $12,454.97, set forth in paragraph (d) above.

Wherefore, the petitioner prays that this Board may hear the proceeding and find that taxable income as computed by the respondent in his notice of deficiency is over-stated by $13,963.86, and that there is no deficiency in tax of the petitioner for the year 1928.

(Signed) DONALD ARTHUR,
*Agent for Petitioner,*
*56 Pine Street, New York, N.Y.*

[*Duly sworn to by Susan Dwight Bliss, jurat omitted in printing.*]